

PERRI ANN BABALIS #5658
GARY D. JOSEPHSON #5299
Assistant Attorney General
SEAN D. REYES #7969
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
PO Box 140874
Salt Lake City, UT 84114
Telephone: 801-366-0375
Email: pbabalis@utah.gov

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH**

UTAH INSURANCE DEPARTMENT,

Complainant,

v.

ZACHARY DANIEL LOVINGIER
PO Box 1056
Spanish Fork, UT 84660
License # 242019

And

ZDL HOLDINGS, LLC d/b/a OPTIMIZED
HEALTH PLANS
PO Box 1056
Spanish Fork, UT 84660
License #552541,

Respondents.

STIPULATION AND ORDER

Docket No. 2015-153 LC

Enf. Case No. 3710

Judge Gregory Soderberg
Administrative Law Judge

STIPULATION

The Utah Insurance Department ("Department"), by and through its legal counsel, Perri

Ann Babalis, and Zachary Daniel Lovingier and ZDL Holdings, LLC d/b/a Optimized Health Plans, ("Respondents"), by and through legal counsel, Randy Smart, hereby stipulate and agree as follows:

1. Respondent, Zachary Daniel Lovingier, is a Resident Producer licensed in Utah. Respondent's business address is PO Box 1056, Spanish Fork, UT 84660. Respondent's license number is 242019.
2. Respondent, ZDL Holdings, LLC d/b/a Optimized Health Plans, is a licensed Utah insurance agency. Respondent's address is PO Box 1056, Spanish Fork, UT 84660. Respondent's license number is 552541.
3. The Department has jurisdiction over the parties and subject matter of this administrative action.
4. Respondent acknowledges notice of agency action pursuant to Utah Code § 63G-4-201; acknowledges that this Stipulation and Order is an informal proceeding pursuant to Utah Code Section 63G-4-202; and irrevocably waives the right to any hearing, review or appeal concerning this matter.
5. Respondent was aware of his right to be represented by legal counsel in this matter and has consulted with legal counsel.
6. This signed Stipulation, along with any Findings of Fact and Conclusions of Law, shall not be subject to any reconsideration, renegotiation, modification, hearing or agency review or appeal.
7. The Findings of Fact and Conclusions of Law presented below are accepted by

the parties.


8. The issuance of the signed and adopted Order proposed below is solely for the purpose of disposing of the specific matter entitled herein.

9. The only promises, agreements and understandings that the parties have regarding this matter are contained in this Stipulation.

10. Respondent enters into this Stipulation voluntarily, knowingly, and free from any coercion of any kind.


11. The persons signing this Stipulation on behalf of the named parties hereby affirm that they are authorized to sign and bind the parties.

Dated this 11 day of JANUARY, 2016.



Randy Smart
Attorney for Respondents

Dated this 12th day of January, 2016.



Perri Ann Babalis
Utah Assistant Attorney General

Based upon the foregoing Stipulation and Department file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

1. Based on an anonymous complaint, the Department investigated the Respondent.
2. Based on an investigation, the Department determined that Respondent was advertising under the name *Optimized Health Plans* and was operating an unlicensed insurance agency and that Respondent was offering gift cards in the amount of \$50.00 for quotes for insurance.
3. Respondent consulted with his legal counsel and, thereafter, agreed to a proposed administrative forfeiture in the amount of \$5,000.00 and probation for a period of 12 months.
4. Respondent cooperated fully in the investigation and provided timely responses to the Department's requests.
5. Respondent has subsequently licensed his agency with the Department.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. Utah Code Section 31A-23a-103 sets forth the requirement for a license in order to perform, offer to perform, or advertise any services as a producer, surplus lines producer, limited line producer, consultant, managing general agent, or reinsurance intermediary in Utah. Respondent violated this provision by operating an insurance agency without a required license.
2. Utah Code Section 31A-23a-402.5 addresses inducements and states that a

de-minimis gift or meal may not exceed \$10.00 if it is conditioned upon receipt of a quote for a particular insurance product. Respondent violated this provision by offering \$50.00 gift cards in exchange for quotes for insurance products quotes.

3. The proposed administrative forfeiture of \$5,000.00 and probation for 12 months are appropriate under the circumstances.

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

ORDER

IT IS HEREBY ORDERED:


1. Respondent, Zachary Daniel Lovingier, is assessed a forfeiture in the amount of \$5,000.00, which shall be paid to the Department as follows:

- a. \$2,000.00 within 30 days of the date of this Order;
- b. \$2,000.00 within 60 days of the date of this Order; and
- c. \$1,000.00 within 90 of the date of this Order.

2. Respondent shall be placed on probation for 12 months during which time he shall have no further violations of Utah insurance statutes or Department rules.

DATED this 13th day of January, 2016.

TODD E. KISER
Insurance Commissioner


GREGORY SODERBERG, J.D.
Administrative Law Judge
Utah Department of Insurance
State Office Building, Room 3110
Salt Lake City, UT 84114
Telephone (801) 538-3800

NOTIFICATION TO RESPONDENT

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 per day for continued violation.

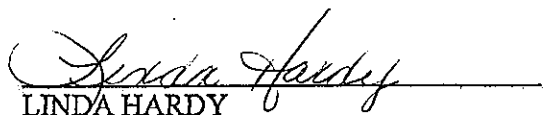
You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

CERTIFICATE OF MAILING

The undersigned hereby certifies that on this date, a true and correct copy of the
STIPULATION AND ORDER was mailed, postage prepaid, to the following:

**RANDY SMART
SMART, SCHOFIELD, SHORTER & LUNCEFORD
5320 SOUTH 900 EAST, SUITE 120
SALT LAKE CITY, UT 84117**

Dated this 14th day of January, 2016.


LINDA HARDY
UTAH INSURANCE DEPARTMENT
STATE OFFICE BUILDING, ROOM 3110
SALT LAKE CITY, UT 84114-6901

UTAH
Invoice - Original

ZACHARY DANIEL LOVINGIER
LOVINGIER, ZACHARY DANIEL
PO BOX 1056
SPANISH FORK UT 84660-7056

Printed Date: January 14, 2016
Invoice Date: January 14, 2016
Balance Due: \$5,000.00
Due Date: February 14, 2016
Invoice ID: 826463
Payor ID: 128687

Date	Item Description	Amount
01-14-2016	Monetary Penalty Individual	\$5,000.00

E-Case 3710 2015-153 LC First \$2000.00 payment to be made 2-14-16 Second payment of \$2000.00 to be paid 3-14-16 Third and final payment of \$1000.00 to be made 4-1-16

No Adjustments

No Payments

Balance Amount Due \$5,000.00

UTAH
Invoice - Original

Make check payable to: Utah Insurance Department
Send payment to:
Utah Insurance Department
3110 State Office Building
Salt Lake City, UT 84114-6901

Invoice Date: January 14, 2016
Balance Due: \$5,000.00
Due Date: February 14, 2016
Invoice ID: 826463
Payor ID: 128687

E-Case 3710 2015-153 LC

Detach and Return this Voucher with Payment
Payments Will Not Be Processed without Voucher